



C O U N C I L C O N N E C T I O N

Maryland Developmental Disabilities Council LEGISLATIVE OVERVIEW 2010

This overview highlights some of the many important budgets and bills that were critical to people with developmental disabilities and their families during the 2010 legislative session. For more detailed information on a particular bill, visit <http://mlis.state.md.us/#bill> type the bill number in the box provided. The Governor has *not yet* signed into law all of the bills that passed.

Developmental Disabilities Administration Budget *Transitioning Youth Funded – Other Needs Unmet*

The General Assembly approved Governor O'Malley's proposed FY2011 budget for the Developmental Disabilities Administration (DDA) without cuts. The budget includes funding to provide employment or other day supports to all youth with developmental disabilities transitioning out of school in the coming year. In addition, the budget includes funds to serve a portion of the emergencies that DDA will have to address; the amount is less than half of what is projected to be needed. The budget also includes an appropriation to provide community services for about 25 people with developmental disabilities who are involved in the criminal justice system (previous referred to as "forensics").

Lastly, the FY2011 budget includes funding from a Special Fund, the Waiting List Equity Fund, to support approximately 40 people in the community. They will receive residential support and resource coordination. While this increased funding is positive news, especially in tough economic times, this does not begin to address the DDA Waiting List. There are over 3500 people on the list who receive no DDA support and another 5500 who receive some support, like day/employment services, but who need additional support, like residential services. A multi-year funding commitment in the State budget, supplemented by a dedicated funding source for developmental disabilities services, is needed to address this critical, and growing, statewide problem. Read in this report about legislation that attempted to address this crisis in various ways.

DDA FY2011 Budget Expansion (State & Federal Funds)

	<u>Increase in funding</u> \$11.8M	<u>Impact, (est.)</u> 608 young adults leaving school will receive employment/day services & resource coordination.
Transitioning Youth		
Emergencies	\$2.2M	Residential, day & resource coordination services for 50 people in emergency situations.
Community Services Waiting List Equity Fund (Special Funds generated by the WLEF & matched with federal funds)	\$1.5M	Approximately 40 people on DDA's Waiting List will receive community supports & services. These are the only funds in the budget for people on the Waiting List.
Community Services Court Involved	\$1.1M	These funds will be used to provide community supports and services to approximately 25 people with developmental disabilities involved in the court system.

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Developmental Disabilities Administration - Reporting Requirements

The legislature included budget language this year that requires DDA to provide three reports. Funds will be withheld until the reports are provided. They are as follows:

A report detailing:

- ◆ the disposition of the approximately 5,547 individuals that are proposed to be removed from the waiting list because they currently receive at least one waiver service while continuing to wait for additional services;
- ◆ the total number of individuals on the waiting list (including those that are being proposed for removal) by county, type of service(s) requested, priority category, and projected cost to provide these services;
- ◆ a description of the manner in which the department notifies individuals who are waiting for services from DDA of their change in status (if any), their appeal rights, and how to access additional services for those individuals who have already been determined eligible for and in need of additional DDA-waiver services; and
- ◆ for individuals whom DDA could not locate through its process of verifying the status of people waiting for services, the steps taken to locate these individuals, the manner in which it will maintain identifying information for these individuals in the event they contact DDA in the future, and how DDA will ensure their waiting list status will be restored if they again contact DDA.



Further, the legislature included budget language that stated, “it is the intent of the General Assembly that the 5,547 individuals who had been determined by DDA to be eligible for the waiting list and in need of additional services shall not be removed from the waiting list until they have received the additional services.”

A report detailing:

- ◆ a projection of the service needs and associated costs, including residential costs, for students transitioning from educational services at age 21 in fiscal 2012, 2013, and 2014, who are also transitioning from foster care and educational nonpublic placements and who will require residential supports upon transition; and
- ◆ a projection of the service needs and associated costs of children and youth in the Autism Waiver who are aging out in fiscal 2012, 2013, and 2014.

A report detailing:

DDA’s performance in conducting annual Level of Care Re-evaluations in accordance with its federal Home and Community-based Waiver. The report shall include:

- ◆ the method and documents used in conducting annual Level of Care Re-evaluations;
- ◆ aggregate data on the numbers of individuals re-evaluated and a summary of the aggregate changes in level of care; and
- ◆ the manner in which the department provides notice of appeal rights under the Medicaid Fair Hearing Appeal process

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Respite Care Budget

\$1M had been cut for respite care in the Department of Human Resources FY 2011 budget. The legislature restored \$750,000 of this amount.

Waiting List for Community Services



A February 2010 independent poll by [Opinion Works](#) found that 4 out of 5 Maryland voters (80%) support increasing government funding of programs for people with developmental disabilities. A grassroots and media campaign supported advocacy to secure passage of the following bills. These efforts will continue; visit www.endthewaitnow.com

SB 318/HB 830: Income Tax Check-off for Developmental Disabilities (passed)

This was the only legislation addressing the Developmental Disabilities Waiting List for community services that passed. This bill establishes a check-off box on the Maryland income tax return form that allows people to contribute to the Developmental Disabilities Waiting List Equity Fund. The Waiting List Equity Fund is used to provide community services and supports for people with developmental disabilities and their families. This new check-off is similar to what is currently on the form for the Chesapeake Bay and Endangered Species Fund, the Cancer Research Fund, and the Fair Campaign Financing Fund.

SB 717/HB 832: The Lorraine Sheehan Health & Community Services Act of 2010 (no committee vote)

This legislation would have raised the Maryland excise tax on alcohol the equivalent of 10 cents per drink. The proceeds were targeted for developmental disability and mental health services, addictions treatment and the expansion of health care. The amount for developmental disabilities services was estimated at \$30M annually; half that amount would be directed to the DDA waiting list and the other half to address underfunding of developmental disability community programs.



Maryland's alcohol taxes are among the lowest in the nation. The spirits tax is 47th in the nation, the beer tax is 44th and the wine tax is 37th. The spirits excise tax was last raised in 1955 and the beer and wine excise taxes were last raised in 1972.

HB 938: Developmental Disabilities Administration - Waiting List Equity Fund (failed-unfavorable committee report)

This legislation was an attempt to establish a multi-year, significant and sustained effort to address the long Developmental Disabilities Administration (DDA) waiting list. It would have mandated that the Governor include funding in the state budget annually for the waiting list. The amount mandated was figured as at least \$29,000 multiplied by 90% of the individuals eligible for at least one community service from DDA; it included an inflationary adjustment. The bill required that people not wait more than one year to receive at least one service.

HB 1283: Developmental Disabilities Waiting List Reduction Act of 2010 (failed-unfavorable committee report)

This bill would have increased funding for the DDA Waiting List by mandating a \$5M appropriation in the Governor's budget in fiscal years 2012-2015.

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DDA Community Supports and Services

SB 633/HB 1034: Community Services Reimbursement Rate Commission—Developmental Disabilities & Community Mental Health Services Rate Adjustments (passed)

This bill begins to address the chronic underfunding of the developmental disabilities community service system. The legislation will require the Governor to appropriate funds for an annual inflationary increase for developmental disability community services and community mental health services. The increase must be equivalent to the inflationary increase provided to state agencies in the Governor's budget. The inflationary increase is capped at 4%.

In addition, the bill requires DHMH to develop a plan for implementing rate-setting for developmental disability and mental health community services that align provider rates with reasonable costs. The legislation is in effect FY 2012 -2016 but can be extended at that time by the legislature should they deem it necessary to continue.

SB 465/HB 900: DDA Recipient Appeals (passed)

Individuals who receive Medicaid waiver services through the Developmental Disabilities Administration have a written plan of habilitation that outlines their service and support needs. This legislation requires DDA to notify people that they have the right to request a Medicaid fair hearing (as stipulated in state law and federal Medicaid law) if they are denied Medicaid waiver services that would be provided under their written plan of habilitation. Within 30 days after a denial DHMH must provide written notice that includes the reason for the denial and instructions for appeal.

SB 920/HB 1226: Low Intensity Support Services (passed)

Low Intensity Support Services (LISS) are family and individual support services provided by the Developmental Disabilities Administration and are designed to be flexible, timely and individualized. The LISS program has existed for over 15 years but was never formally established in state law. This legislation establishes LISS in statute and stipulates that DDA shall establish a cap of no less than \$3,000 of LISS per eligible individual per fiscal year. The bill also stipulates that individuals and families are not required to submit a regular DDA application for services in order to receive LISS but DDA may develop a simplified application process for LISS. Further, the legislation states that families cannot be required to apply for Medicaid in order to receive LISS if the person with a developmental disability is a minor.

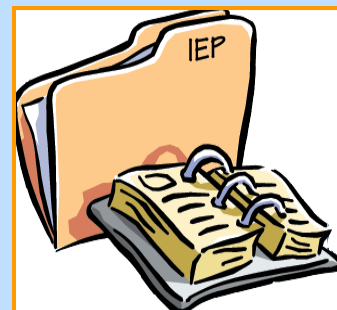


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Education

SB 540/HB 269: Child with a Disability – Individualized Education Program (passed)

This bill requires school personnel to provide copies of any documents 5 days in advance of an Individualized Education Program (IEP) or interdisciplinary team meeting at which parents and school staff will be making education decisions based on those documents. Current law does not require that parents be provided with a copy of new assessments or evaluations prior to the meeting. Without the ability to prepare for meetings by reviewing documents ahead of time as school staff are able to do, parents cannot effectively be partners in the special education process. Both federal and state law support parent participation in meetings as partners with school staff.



Supported by a coalition of education advocates, this bill addresses the inequity students with disabilities and their families face with regard to the special education process and meetings where important decisions are made.

SB 467/HB 59: Task Force to Explore the Incorporation of the Principles of Universal Design for Learning into the Education Systems in Maryland (passed)

The Maryland State Department of Education must convene a task force to study the feasibility of incorporating the principles of Universal Design for Learning (UDL) into the education systems in Maryland. UDL is a framework and set of principles that provides all students equal opportunity to learn.

Parents of students with disabilities and other advocates led the effort to incorporate UDL into all school systems. An earlier version of this bill would have required increased parent participation in the task force.

SB 204/HB 11: Student Stigma Act (passed)

This legislation changes all references to “emotional disturbance” in Maryland law to “emotional disability.”

SB 557: Education – Alternate Maryland School Assessment – Review and Revisions (passed)

This bill requires the Maryland State Department of Education to review the Alternative Maryland School Assessment and how it is administered.

Advocates were concerned with a previous version of the bill because it would have required revisions to the Alternative Maryland School Assessment that were potentially out of compliance with the Individuals with Disabilities Education Act and No Child Left Behind by altering the assessment away from the general curriculum.

SB 286/HB 466: Governor’s P-20 Leadership Council of Maryland (passed)

This bill establishes the Governor’s P-20 Leadership Council of Maryland which will investigate ways to improve education and the workforce through a variety of strategies.

The DD Council recommended an amendment to include the Department of Disabilities on the P-20 Leadership Council to ensure that student achievement is improved and workforce skills are promoted for all students, including students with disabilities.

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Education continued

HB 352: Education – Maryland Data Warehouse Council (no committee vote)

This legislation would have established a Maryland Data Warehouse Council to identify ways to improve student success and achievement at all levels of the education system through the collection of data.

The DD Council recommended an amendment to include the Department of Disabilities on the Maryland Data Warehouse Council to ensure that students with disabilities are not forgotten as data is collected to improve student success at every level.

HB 1384: Restore Respect at School Act (failed – unfavorable committee report)

House Bill 1384 would have denied parents the dependent subtraction modification on their income taxes or the tax credit for dependent care expenses if their child did not complete the minimum amount of homework; was habitually truant; or was suspended or expelled more than once for disrespect, insubordination or classroom disruption.

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Children/Child Care

SB 758/HB 350: Early Learning Challenge Fund – Application for Grants (passed)

This bill requires the Maryland State Department of Education to apply for grants from the Early Learning Challenge Fund if federal legislation takes effect enacting the Fund.



SB 213/HB 33: Child Care Articles Containing Bisphenol-A - Prohibition (passed)

This prohibits the manufacture, sale or distribution of any child care articles, defined as “an empty bottle or cup to be filled with food or liquid that is designed or intended by a manufacturer to be used by a child under the age of 4 years,” containing Bisphenol-A (BPA). BPA is an industrial chemical used to make a hard, clear plastic known as polycarbonate, which has been used in many consumer products, including reusable water bottles, baby bottles and children’s toys. Over the past several years, studies have connected BPA levels to various health problems, especially during fetal development and for newborns.

SB 759/HB 419: Early Child Care and Education Enhancement Program – Annual Report (failed - passed in Senate, but not voted on in House)

This legislation would have required MSDE to expand an existing report about the Judy Hoyer Centers and Enhancement Grants to include reports on other early childhood education programs, including pre-kindergarten programs, Infants and Toddlers, family support services, child care centers and others. Expanded reporting would have also included statewide performance data, including school readiness data and would help Maryland monitor progress and results in early childhood education.

The DD Council supports initiatives that would include further reports on school readiness data. MSDE data from the recent report, Children Entering School Ready to Learn: 2009-2010 Maryland Model for School Readiness, reveals that while 78% of all students enter kindergarten fully ready to learn, only 51% of students with disabilities entered kindergarten fully ready to learn. Students with disabilities have the lowest percentage of school readiness compared to all other specific groups analyzed in the report.

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Civil Rights

SB 28/HB 816: Honorable Lorraine M. Sheehan Act to Protect Voting Rights for Individuals Under Guardianship for Mental Disability (passed)

People under guardianship for mental disability will finally be able to vote in Maryland unless a court finds they cannot communicate, with or without an accommodation, the desire to participate in the voting process.



HB 1106: Limited Immunity – Seeking Care or Medical Assistance for a Vulnerable Adult (failed – unfavorable committee report)

This bill would have provided limited immunity to family members and other caregivers from criminal prosecution if they sought medical treatment for a vulnerable adult, including a person with developmental disabilities, after an incident of abuse or neglect. In other words, it could have given people the equivalent of a “free pass” to abuse or neglect someone.

HB 1162: Health Care Facilities – Abuser Registry (failed – unfavorable committee report)

HB 1162 would have required the Department of Health and Mental Hygiene to establish a registry that included the names and social security numbers of any employee of a health care facility that was terminated for abusing or neglecting a person with a developmental disability or other vulnerable person.

The DD Council supports further attention to this issue and the development of future legislation that will enhance the ability of employers to more effectively screen out candidates during the hiring process who have a history of abuse and/or neglect of vulnerable adults.

HB 1262: Incompetency and Criminal Responsibility – Dismissal of Charges (failed – unfavorable committee report)

This bill would have changed the basis for commitment and extended the commitment time for people with disabilities found incompetent to stand trial. Current law reflects considerable debate and agreement reached by diverse parties including disability advocates, victims’ rights advocates, DHMH, the Judiciary, Public Defender, State’s Attorney’s office, and the Office of the Attorney General. The agreement they arrived at was already a compromise that advocates believe fell far short of ensuring proper rights and treatment; HB 1262 ignored this extensive work and compromise and would have negatively impacted people with intellectual disabilities.

Health

SB 700/HB 1017: Health Insurance – Child Wellness Benefits (passed)

This bill includes developmental screening as recommended by the American Academy of Pediatrics (AAP) in the list of child wellness and preventive services that must be covered by health insurance policies and plans in Maryland.

AAP recommends that all infants and young children be routinely screened for developmental milestones at each visit to the pediatrician. Because early identification of a developmental disability and/or delay and intervention are critical for infants, toddlers and their families, any concerns raised at a visit should be promptly addressed with standardized developmental testing.



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Health Continued

SB 445/HB 198: Health Insurance – Habilitative Services – Required Coverage (failed – unfavorable committee report)

SB 445/HB 198 would have extended current law to require insurers, non-profit health plans and health maintenance organizations to provide habilitative services to people with disabilities (defined as people born with congenital or genetic birth defects) until the age of 25. The current law does not mandate insurance companies provide coverage for habilitative services for people aged 19 and older. The Senate Finance Committee plans to ask the Maryland Health Care Commission to study the impact of the bill on private insurance carriers.

SB 1028/HB 1091: Health Insurance – Coverage of Autism Spectrum Disorders (no committee vote)

This bill would have required insurance companies to provide coverage for the diagnosis and treatment of autism spectrum disorders, speech generating devices and Applied Behavior Analysis (ABA). A key mandate in this bill was the requirement that insurance companies cover ABA, a therapy most often used to improve socially significant behavior and identified as the most effective treatment for children with autism. However, the bill also required insurers to cover the “evidenced-based, medically necessary treatment of autism disorders” defined as “habilitative or rehabilitative care.” Habilitative and rehabilitative care included counseling, treatment programs and devices, including applied behavior analysis and speech generating devices. Some of these treatments and devices can be medically necessary for the treatment of a variety of types of disabilities, not just autism spectrum disorders.

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Employment

SB 58: Workers’ Compensation (passed)

Individuals placed in unpaid work-based learning experiences by MSDE’s Division of Rehabilitation Services (DORS) will now be eligible for workers’ compensation benefits under State law for the purpose of covering medical services and treatment. Employers sponsoring work-based learning experiences must maintain workers’ compensation coverage for these individuals throughout the course of their employment. MSDE must reimburse employers up to \$250 for premium increases to their workers’ compensation insurance policies.

SB 221: Tax Credits for Qualifying Employees (passed)

The Qualifying Employees with Disabilities Tax Credit permits employers who hire qualified individuals with disabilities to claim a tax credit for certain wages paid to the employee and for child care and transportation expenses paid on behalf of the employee in the first two years of employment. The Qualifying Employees with Disabilities Tax Credit program was set to terminate in June 2010 but is now extended through June 2011.

HB 463: Employment Discrimination based on Family Responsibilities (failed – unfavorable committee report) Under current law, employers are prohibited from discriminating based on a person’s race, color, religion, sex, age, national origin, marital status, sexual orientation, genetic information, or disability. HB 463 would have extended these protections to prohibit discrimination against an individual because of family responsibilities.

The DD Council supported the bill because of its important for parents and family members of people with disabilities. Parents of children with disabilities have significant responsibilities which may differ from typical care-giving responsibilities on several dimensions. For example, children with disabilities may have more doctor appointments or may need specialized care decreasing the number of childcare options. In addition, often children and adults with significant disabilities require support and supervision as they get older meaning they can’t be home alone like many children without disabilities can as they reach their teens. Because of this, parents of children with disabilities require flexibility in their family schedules, their child care arrangements, and their work lives.

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Housing

*A recent report, **The Hidden Housing Crisis: Worst Case Housing Needs Among Adults with Disabilities**, estimates that households with nonelderly people with disabilities account for nearly 40 percent of all worst-case housing needs in the United States.*



SB 243: Housing Discrimination (failed - unfavorable committee report)

This bill would have prohibited discriminatory practices in the sale or rental of housing because of a person's source of income. Housing discrimination based on race, sex, color, religion, national origin, marital status, familial status, and disability are currently prohibited. Under the bill, people with disabilities who receive Supplemental Security Income (SSI), among others, would have been protected.

HB 757: Accessibility Standards for Housing (failed – no committee action)

Beginning in 2013, this bill would have established criteria requiring housing units being built to have at least one accessible entrance. The bill included numerous exemptions.

Helmet Laws

Protective headgear laws are pertinent to disability public policy because of the increased risk of head injury and permanent disability. The National Highway Traffic Safety Administration reported that un-helmeted motorcyclists are three times more likely than helmeted riders to suffer traumatic brain injuries.

SB 492/HB 1282: Protective Headgear Requirements for Motorcycle Riders (failed, unfavorable committee report)

Current law requires all motorcycle drivers and riders to wear protective headgear. This bill sought to exempt drivers and riders 21 years and older but failed to pass.



HB 140: Protective Headgear for Minors - (failed, unfavorable committee report)

This bill would have required anyone under the age of 18 to wear protective headgear when operating or riding as a passenger on a bicycle, motor scooter or moped. Current law forbids anyone younger than age 16 to operate or ride as a passenger on a bicycle.

HB 1030: Protective Headgear requirements for Motor Scooters - (failed, unfavorable committee report)

This bill would have required helmets to be worn when operating or riding on a motor scooter.

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Closed Captioning

**SB 68/HB 1051: -State Government – Closed Captioning Activation Required
(passed)**

People will now be able to request closed captioning be used on a television in a place of public accommodation.



HB 1086: Campaign Advertisements – Closed Captioning (failed – passed in House, but not voted on in Senate)

This bill would have required certain campaign finance entities to include closed captioning for individuals who are deaf or hard of hearing in campaign advertisements on television, including cable, and on their websites. Closed captioning on TV campaign advertisements would not be required if the campaign posted a transcript of the spoken content of the advertisement on its website. This would have only applied to campaign finance entities of a candidate for election to the offices of Governor, Lieutenant Governor, Attorney General or Comptroller.

HB 1463: Rachel's Law – Closed Captioning in Movie Theaters (failed – unfavorable committee report)

This bill would have required movie theaters to provide closed captioning technology for deaf and hard of hearing individuals.

Miscellaneous

**HB 1324: Public General Laws – Terminology – Substitution for “Mentally Defective”
(failed – unfavorable committee report)**

This bill would have changed all references to “mentally defective individual” in Maryland law to “individuals with a cognitive disabilities, intellectual disabilities, or mental illness” to be consistent with current terminology.

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This publication is available in alternative formats/languages upon request.

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